

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

KEVIN LAMARR BETHEA,

Petitioner

-vs-

ATTORNEY GENERAL OF THE
UNITED STATES,

Respondent

NO. 3:CV-05-1538
(Judge Kosik)

MEMORANDUM AND ORDER

AND NOW, this 30th day of November, 2005, IT APPEARING TO THE COURT
THAT:

(1) Petitioner, Kevin Lamarr Bethea, a prisoner confined at the Low Security Correctional Facility at Allenwood, White Deer, Pennsylvania, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2241 and a brief in support thereof on August 1, 2005;

(2) Petitioner paid the filing fee on August 24, 2005;

(3) The matter was assigned to Magistrate Judge Malachy E. Mannion;

(4) On September 2, 2005, the Magistrate Judge filed a Report and Recommendation in which he recommended that: (1) to the extent the instant action is considered as a petition for writ of habeas corpus, the action be dismissed, as the

petitioner is not challenging the fact or duration of his confinement; and (2) to the extent that the instant action is considered as a civil rights action, the action be denied, as the petitioner is not entitled to the requested relief;

(5) Specifically, the petitioner is challenging an incident report which he was given while confined at the Allenwood Federal Prison Camp. The Magistrate Judge found that petitioner's claims related to conditions of prison life and were inappropriately raised by way of habeas corpus. The Magistrate Judge then discussed the requests for relief in a civil rights context and determined that the petitioner would not be entitled to the requested relief;

(6) On September 12, 2005, petitioner requested an extension of time to file objections to the Magistrate Judge's Report and Recommendation until October 15, 2005, which request was granted by the court;

(7) To date, no objections have been filed to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(8) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a *de novo* review of his claims. 28 U.S.C. §636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a Magistrate Judge's report prior to adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987).

(9) Having considered the Magistrate Judge's Report, we agree with the recommendation.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Malachy E. Mannion dated September 2, 2005 (Doc. 5) is **ADOPTED**;

(2) The above-captioned action is **DISMISSED**; and,

(3) The Clerk of Court is directed to **CLOSE** this case and to forward a copy of this Memorandum and Order to the Magistrate Judge.

s/Edwin M. Kosik
United States District Judge